

NOT DESIGNATED FOR PUBLICATION
ARKANSAS COURT OF APPEALS
ROBERT J. GLADWIN, JUDGE

DIVISION I

CACR06-506

JANUARY 16, 2008

PAUL BARRON, SR.

APPELLANT

APPEAL FROM THE CARROLL
COUNTY CIRCUIT COURT
[NO. CR-2000-124]

V.

HON. ALAN D. EPLEY,
CIRCUIT JUDGE

STATE OF ARKANSAS

APPELLEE

MOTION TO WITHDRAW DENIED;
REBRIEFING ORDERED

The appellant in this criminal case was tried by a Carroll County jury and convicted of manufacturing a controlled substance (methamphetamine). His attorney, Mr. Phillip A. Moon, has filed a motion to be relieved as counsel, alleging that there are no meritorious issues presented in this appeal. We deny the motion and order rebriefing.

Our standard in determining whether to relieve an attorney from a non-meritorious appeal is not whether counsel thinks the trial court committed no reversible error, but rather whether the points to be raised on appeal would be “wholly frivolous.” *Anders v. California*, 386 U.S. 738 (1967); *Ofochebe v. State*, 40 Ark. App. 92, 844 S.W.2d 373 (1992). To be

relieved on this basis, an attorney must comply with Rule 4-3(j)(1) of the Rules of the Arkansas Supreme Court and Court of Appeals, which provides that:

Any motion by counsel for a defendant in a criminal or a juvenile delinquency case for permission to withdraw made after notice of appeal has been given shall be addressed to the Court, shall contain a statement of the reason for the request and shall be served upon the defendant personally by first-class mail. A request to withdraw on the ground that the appeal is wholly without merit shall be accompanied by a brief including an abstract and Addendum. The brief shall contain an argument section that consists of a list of all rulings adverse to the defendant made by the circuit court on all objections, motions and requests made by either party with an explanation as to why each adverse ruling is not a meritorious ground for reversal. The abstract and Addendum of the brief shall contain, in addition to the other material parts of the record, all rulings adverse to the defendant made by the trial court.

Appellant's attorney failed to comply with this rule. His abstract contains the denial of a motion to suppress as well as the denial of a motion for directed verdict, yet neither are discussed in the argument section of the brief. There also appear to be several other motions or requests made during the proceedings that counsel has failed to include in the abstract and provide an explanation as to why each adverse ruling is not a meritorious ground for reversal. Additionally, neither the abstract nor the argument section contain even a single reference to any objections, yet our inspection of the transcript revealed that there were at least nine objections, perhaps more, that were decided adversely to appellant. Because of these deficiencies, we order that the case be rebriefed in accordance with Rule 4-3(j) within thirty days. *See Skiver v. State*, 326 Ark. 914, 935 S.W.2d 248 (1996).

Motion to withdraw denied; rebriefing ordered.

PITTMAN, C.J., and BAKER, J., agree.